

WILLKIE FARR & GALLAGHER LLP

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

October 29, 2022

VIA ECF

The Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Rashid Sultan Rashid Al Malik Alshahhi, et al., 1:21-cr-371 (BMC) (S-1)

Dear Judge Cogan:

We write on behalf of Mr. Barrack to propose the italicized additions, attached as Exhibit A, to the Court's instruction regarding the definition of "corruptly" for the obstruction of justice charge (Count Three). Exhibit A contains the proposed instruction handed up by Mr. Barrack's counsel during the Charge Conference and reflects the Supreme Court's decision in *United States v. Aguilar*, 515 U.S. 593, 599-601 (1995), and the Second Circuit's decision in *United States v. Schwartz*, 283 F.3d 76, 107-110 (2d. Cir. 2002) as well as *United States v. Reich*, 479 F.3d 179, 186 (2d Cir. 2007), where the Second Circuit held that *Aguilar* and *Schwartz* are controlling in a Section 1512(c)(2) case.

Respectfully Submitted,

WILLKIE FARR & GALLAGHER LLP

/s/ Michael S. Schachter

Michael S. Schachter
Randall W. Jackson
Steven J. Ballew

O'MELVENY & MYERS LLP

James A. Bowman

*Counsel for Defendant
Thomas J. Barrack, Jr.*

Cc (via ECF):
Hiral D. Mehta
Ryan C. Harris
Samuel P. Nitze

Craig R. Heeren
Matthew John McKenzie